

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ROBERT KENNY,

Plaintiff,

v.

PACIFIC INVESTMENT  
MANAGEMENT COMPANY LLC, a  
Delaware limited liability company;  
PIMCO INVESTMENTS LLC,

Defendants.

No. CV 14-1987-RSM

**STIPULATION AND ORDER  
AMENDING ORDER SETTING TRIAL  
DATE AND RELATED DATES AND  
DEADLINES IN JOINT STATUS  
REPORT AND DISCOVERY PLAN**

Plaintiff Robert Kenny (“Plaintiff”) and Defendants Pacific Investment Management Company LLC and PIMCO Investments LLC (collectively, “Defendants”), through their undersigned counsel of record, hereby stipulate and agree as follows:

On September 6, 2016, the parties filed with the Court the Joint Status Report and Discovery Plan (Dkt. 98), wherein the parties reported that additional time was necessary to complete the expanded discovery obligations arising from recent Court orders and to respond to ongoing discovery requests. This stipulation and proposed order follows the status report by specifying certain proposed revised deadlines for completion of various discovery activities.

1 Although the parties have sought to complete fact discovery as expeditiously as possible  
 2 and continue to work diligently to this end, in light of the overall volume, ongoing discovery  
 3 requests, and recent Court orders, Defendants' document review and production have become  
 4 larger in scope than previously anticipated, rendering an extension of the previously ordered  
 5 deadlines necessary.  
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10 In addition to requests for production of documents<sup>1</sup> and interrogatories propounded by  
 11 Plaintiff in the normal course of discovery, Plaintiff requests additional discovery based on the  
 12 Court's recent Order Granting Plaintiff's Motion for Judgment on the Pleadings in this matter  
 13 (Dkt. 97). The order held that "Section 36(b) of the ICA contains only a retrospective  
 14 limitation on damages and [ ] Plaintiff need not file Anniversary Complaints annually to  
 15 preserve his right to pursue damages incurred after the filing of this action" and has the effect  
 16 of extending the timeframe at issue in this matter. As a result, Plaintiff has requested  
 17 production of documents from the later time period newly encompassed by this matter, which  
 18 necessarily compels Defendants to conduct an additional collection, review, and production of  
 19 documents.  
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30 The Court also granted in part Plaintiff's motion to compel discovery on August 5, 2016  
 31 (Dkt. 96). This order required further discovery on several issues, which will require additional  
 32 time by Defendants and Defendants' counsel to identify and produce responsive documents.  
 33 While Defendants have already provided a portion of the responsive documents to Plaintiff, the  
 34 parties continue to confer over the scope of certain categories of documents contemplated by  
 35 the order.  
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43 Additionally, as a result of ongoing discovery disputes between Plaintiff and the  
 44 Independent Trustees of the PIMCO Total Return Fund (*see* Pls. Mot. to Compel Trustees, Dkt.  
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<sup>1</sup> Defendants are currently responding to Plaintiff's Fourth Request for Production of Documents, in addition to addressing follow-up discovery requests flowing from the First, Second, and Third Requests for Production of Documents and Plaintiff's First Set of Interrogatories.

100), the parties have delayed taking the depositions of several witnesses until the dispute is resolved by the Court.

When all of the above circumstances are considered, Defendants expect their document production to be substantially complete by March 31, 2017. This date for substantial completion of production of documents is nine months later than the June 30, 2016 target for substantial completion of document discovery memorialized in the parties' April 27, 2016 stipulation to a revised discovery plan.

Accordingly, in light of the additional nine months Defendants believe will be necessary to substantially complete production of documents in response to Plaintiff's document requests,

IT IS HEREBY STIPULATED, by and among Plaintiff and Defendants, for good cause shown, that the deadlines and dates reflected in the Court's Order Setting Trial Date and Related Dates (Dkt. 51) and the parties' Stipulation and Order Amending Trial Date and Related Dates and Deadlines in Joint Status Report and Discovery Plan (Dkt. 56) be extended by approximately nine months, as proposed below, subject to the Court's approval:

Event in Order Setting Trial Date and Related Dates	Current Deadline	Revised Deadline
Jury Trial Date	09/19/2017	06/18/2018
Disclosure of expert testimony under FRCP 26(a)(2)	03/17/2017	12/01/2017
All motions related to discovery must be noted on the motion calendar no later than the Friday before discovery closes pursuant to CR7(d)(3) and CR7(a)(2)(B)	05/12/2017	02/09/2018
Discovery completed by	05/19/2017	02/16/2018
All dispositive motions must be filed by and noted on the motion calendar no later than the fourth Friday thereafter (see CR7(d))	06/16/2017	03/16/2018
Mediation per CR 39.1(c)(3) held no later than	07/28/2017	04/27/2018

All motions in limine must be filed by and noted on the motion calendar no later than the THIRD Friday thereafter	08/18/2017	05/18/2018
Agreed pretrial order due	09/01/2017	05/18/2018
Trial briefs, proposed voir dire questions, jury instructions, neutral statement of the case, and trial exhibits due	09/22/2017	06/01/2018
<b>Event in Joint Status Report and Discovery Plan</b>	<b>Current Deadline</b>	<b>Revised Deadline</b>
Document discovery shall be substantially completed on or before	06/30/2016	03/31/2017
Fact discovery shall be completed on or before	10/28/2016	07/28/2017
Expert discovery shall commence promptly upon the closure of fact discovery and shall be completed on or before	05/19/2017	02/16/2018
Plaintiff shall designate any expert witnesses and serve each expert's written report pursuant to Fed. R. Civ. P. 26(a)(2)(B) on or before	12/02/2016	09/15/2017
Defendants shall designate any expert witnesses and serve each expert's report pursuant to Fed. R. Civ. P. 26(a)(2)(B) on or before	02/03/2017	11/03/2017
Plaintiffs shall serve any rebuttal expert reports from previously-designated experts on or before	03/03/2017	12/01/2017
Expert depositions shall be completed by	05/19/2017	02/16/2018

Dated: this 30th day of September, 2016.

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*Attorneys for Defendants Pacific Investment Management Company LLC and PIMCO Investments LLC*

**ORDER**

Pursuant to stipulation by the parties, and for good cause shown, **IT IS SO ORDERED**  
this 4<sup>th</sup> day of October, 2016.



**RICARDO S. MARTINEZ**  
UNITED STATES DISTRICT JUDGE

Presented by:

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STIPULATION AND ORDER

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 30, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses indicated on the Court's Electronic Mail Notice List.

DATED: September 30, 2016.

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